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Paper No.

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COPY MAILED
DEC 15 2008

Patent No. 7,401,327	:	CORRECTED¹ LETTER REGARDING
Issue Date: July 15, 2008	:	PATENT TERM ADJUSTMENT
Application No. 09/760,031	:	AND
Filed: January 12, 2001	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 09612.1014-02000	:	CERTIFICATE OF CORRECTION

This letter is in response to the "NOTICE OF ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT" filed April 8, 2008. Pursuant to patentees' duty of good faith and candor to the Office, patentees disclose that the correct patent term adjustment period is three hundred ninety (390) days, not five hundred sixty-four (564) days.

The request for reconsideration of patent term adjustment indicated in the patent is **GRANTED to the extent indicated herein.**

For the reasons stated herein, the patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **one hundred ninety-eight (198)** days.

On July 15, 2008, this application matured into U.S. Patent No. 7,401,327, with a revised patent term adjustment of 564 days.

¹ This decision is issued to correct a word processing error. No change is made to the calculation of patent term adjustment of 198 days set in the decision as originally mailed on October 31, 2008. Rather this decision corrects the bases for entry of periods of reduction of 128 and 62 days pursuant to 37 CFR 1.704(c)(8). The prior decision did not set forth the proper bases.

Patentees give no basis for their assertion that the correct patent term adjustment is 390 days.

A review of the application history confirms that patentees are correct that the patent term adjustment of 564 indicated on the patent is incorrect. Additional periods of reduction pursuant to 37 CFR 1.704(b) and 1.704(c)(8) are warranted.

37 CFR 1.704(b) provides that:

[A]n applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

A review of the record reveals that applicants failed to engage in reasonable efforts to conclude processing or examination within the meaning of 37 CFR 1.704(b) on two occasions not recognized by the Office. First, applicants did not file a request for continued examination (RCE) in response to the final Office action mailed December 21, 2006, until June 14, 2007, three months and 85 days later. Second, applicants did not file a RCE in response to the final Office action mailed June 15, 2005, until December 15, 2005, three months and 91 days later. Thus, pursuant to 37 CFR 1.704(b), periods of reduction of 85 and 91 days are being entered for applicant delay in taking in excess of three months to reply to an Office action.

Further, 37 CFR 1.704(c)(8) provides that:

Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in

which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

A review of the record reveals that applicants failed to engage in reasonable efforts to conclude processing or examination within the meaning of 37 CFR 1.704(c)(8) on two occasions not recognized by the Office. First, a period of reduction of 128 days should have been entered for applicant delay in filing an Information Disclosure Statement (IDS) on April 13, 2005 after having filed a response on December 6, 2004. Second, a period of reduction of 62 days should have been entered for applicant delay in filing Information Disclosure Statements (IDS) on August 10 and 15, 2007² after having filed a Request for Continued Examination (RCE) and IDS on June 14, 2007. None of the IDSs were expressly requested by the examiner. None included a § 1.704(d) statement. Accordingly, pursuant to 1.704(c)(8), periods of reduction of 128 and 62 days should have been entered.

In view thereof, the patent should have issued with a revised patent term adjustment of one hundred ninety-eight (198) days 751 (681 + 70) days of Office delay - 553 (63 + 128 + 91 + 94 + 85 + 62 + 30) days of applicant delay.

As this letter was submitted as an advisement to the Office of an error in Patentees' favor, the Office will not assess the \$200.00 application fee under 37 CFR 1.705(b). The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **ONE HUNDRED NINETY-EIGHT (198) days**.

² The period of delay for filing the IDS on August 10, 2007 overlaps with the period of delay for filing the IDS on August 15, 2007. Pursuant to 37 CFR 1.704(c)(8), a single reduction of 62 days is being entered for both failures to engage in reasonable efforts to conclude prosecution.

Patent No. 7,401,327

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Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

A handwritten signature in black ink, appearing to read "Nancy Johnson". The signature is fluid and cursive, with the first name "Nancy" being more prominent than the last name "Johnson".

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

Day : Friday
Date: 12/12/2008

PALM INTRANET

Time: 12:22:03

PTA Calculations for Application: 09/760031

Application Filing Date:	01/12/2001	PTO Delay (PTO):	751
Issue Date of Patent:	07/15/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	187
Post-Issue Petitions:	0	Total PTA (days):	198
PTO Delay Adjustment:	-366		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
115	10/31/2008	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
114	10/28/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		62	
113	10/28/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		85	
112	10/28/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		91	
111	10/28/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		128	
107.5	06/25/2008	PTA 36 MONTHS			
107	07/15/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
106	06/17/2008	EXPORT TO FINAL DATA CAPTURE			
105	06/12/2008	FINISHED INITIAL DATA CAPTURE			
104	06/13/2008	DISPATCH TO FDC			
103	06/12/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
102	06/11/2008	RESPONSE TO REASONS FOR ALLOWANCE			
101	06/11/2008	ISSUE FEE PAYMENT VERIFIED			
100	06/11/2008	ISSUE FEE PAYMENT RECEIVED			
99	04/25/2008	EXPORT TO INITIAL DATA CAPTURE			
97	04/22/2008	MAIL NOTICE OF ALLOWANCE			
96	02/26/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
91	03/25/2008	ISSUE REVISION COMPLETED			
90	03/25/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
89	03/25/2008	EXAMINER'S AMENDMENT COMMUNICATION			
88	03/17/2008	DOCUMENT VERIFICATION			
87	03/11/2008	NOTICE OF ALLOWABILITY			

83	01/24/2008	PARALEGAL TD ACCEPTED			
82	01/23/2008	DATE FORWARDED TO EXAMINER			
81	12/27/2007	RESPONSE AFTER NON-FINAL ACTION		30	79
80	12/27/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
79	08/27/2007	MAIL NON-FINAL REJECTION			
78	08/20/2007	NON-FINAL REJECTION			
77	08/10/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
76	08/10/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
75	08/15/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
74	08/15/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
73	08/15/2007	MISCELLANEOUS INCOMING LETTER			
72	08/15/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
71	08/14/2007	MISCELLANEOUS INCOMING LETTER			
70	08/10/2007	REFERENCE CAPTURE ON IDS			
69	08/10/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
68	06/14/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
66	06/14/2007	REFERENCE CAPTURE ON IDS			
65	06/14/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
64	06/18/2007	DATE FORWARDED TO EXAMINER			
63	06/14/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
62	06/18/2007	DATE FORWARDED TO EXAMINER			
61	06/14/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
60	06/18/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
59	06/14/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
58	06/14/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
57	06/14/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
56	12/21/2006	MAIL FINAL REJECTION (PTOL - 326)			

55	12/11/2006	FINAL REJECTION			
54	09/27/2006	DATE FORWARDED TO EXAMINER			
53	09/25/2006	RESPONSE AFTER NON-FINAL ACTION		94	51
52	09/25/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
51	03/23/2006	MAIL NON-FINAL REJECTION			
50	03/20/2006	NON-FINAL REJECTION			
49	02/01/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
48	01/27/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
47	01/10/2006	DATE FORWARDED TO EXAMINER			
46	12/15/2005	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
45	01/10/2006	DATE FORWARDED TO EXAMINER			
44	12/15/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)			
43	01/10/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
42	12/15/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
41	12/15/2005	WORKFLOW - REQUEST FOR RCE - BEGIN			
40	06/15/2005	MAIL FINAL REJECTION (PTOL - 326)	70		32
39	06/13/2005	FINAL REJECTION			
38	04/13/2005	REFERENCE CAPTURE ON IDS			
37.7	04/13/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
37	04/13/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
36	12/06/2004	MISCELLANEOUS INCOMING LETTER			
35.7	12/06/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
35	12/06/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
34	12/06/2004	NEW OR ADDITIONAL DRAWING FILED			
33	04/08/2005	DATE FORWARDED TO EXAMINER			
32	12/06/2004	RESPONSE TO RULE 105 REQUIRED FOR INFORMATION FILED			
31	03/22/2005	CASE DOCKETED TO EXAMINER IN GAU			
30	12/06/2004	WORKFLOW INCOMING AMENDMENT IFW			

29	11/30/2004	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
28	11/16/2004	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
27	11/23/2004	CORRESPONDENCE ADDRESS CHANGE			
26	11/24/2004	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
25	10/07/2004	MAIL INDEPENDENT RULE 105 COMMUNICATION			
24	10/01/2004	REQUIREMENT UNDER RULE 105 - INDEPENDENT COMMUNICATION			
22	07/20/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
21	07/20/2004	DATE FORWARDED TO EXAMINER			
20	06/24/2004	RESPONSE AFTER NON-FINAL ACTION		63	15
19	06/24/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
18	02/02/2004	REFERENCE CAPTURE ON IDS			
17	06/24/2004	WORKFLOW INCOMING AMENDMENT IFW			
16.7	02/02/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	02/02/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	01/22/2004	MAIL NON-FINAL REJECTION	681		-1
14	01/12/2004	NON-FINAL REJECTION			
13	12/11/2003	CASE DOCKETED TO EXAMINER IN GAU			
12.7	09/10/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	09/10/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	06/22/2003	CASE DOCKETED TO EXAMINER IN GAU			
10.7	01/27/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	01/27/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	12/23/2002	CASE DOCKETED TO EXAMINER IN GAU			
8	11/08/2002	CASE DOCKETED TO EXAMINER IN GAU			
7.7	02/12/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	02/12/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

6	02/27/2002	CASE DOCKETED TO EXAMINER IN GAU			
5.7	01/04/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
5	01/04/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
4	03/02/2001	APPLICATION DISPATCHED FROM OIPE			
3	02/27/2001	CORRESPONDENCE ADDRESS CHANGE			
2	01/31/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	01/12/2001	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,401,327 B2

DATED : July 15, 2008

DRAFT

INVENTOR(S) : Halstead, Jr. et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 564 days

Delete the phrase "by 564 days" and insert – by 198 days--